

Rowe v. Ray

Civil Action No. 3:19cv418

EXHIBIT A

108 x 108

108 x 108

In the Matter Of:

UHURU ROWE v. 3:18 HAROLD C. CLARKE

LT. CARPENTER

May 31, 2019

UHURU ROWE v. 3:18 HAROLD C. CLARKE
CARPENTER, LT. on 05/31/2019

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UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

UHURU ROWE,
Plaintiff,
v. Case No.
3:18cv780
HAROLD C. CLARKE et al,
CARPENTER, LT. on 05/31/2019
Defendants.

DEPOSITION OF LT. MICHELLE CARPENTER

May 31, 2019

Greensville, Virginia

HALASZ REPORTING & VIDEO

1011 East Main Street, Suite 100

RICHMOND, VA 23218-1644

(804) 708-0025

Reported by: Cynthia G. Shortlidge

Halasz Reporting & Video | 804.708.0025
PO Box 1644 Richmond, VA 23218-1644

UHURU ROWE v. 3:18 HAROLD C. CLARKE
CARPENTER, LT. on 05/31/2019

<p style="text-align: right;">Page 2</p> <p>1 Deposition of LT. MICHELLE CARPENTER, taken by and 2 before Cynthia G. Shortlidge, Notary Public in and for the 3 Commonwealth of Virginia at large, pursuant to Rule 4:5 of 4 the Rules of the Supreme Court of Virginia, and by Notice to 5 take Deposition, commencing at 1:40 p.m., May 31, 2019, at 6 the Greenville Correctional Center, 901 Corrections Way, 7 Jarratt, VA 23870.</p> <p>8</p> <p>9 APPEARANCES:</p> <p>10</p> <p>11 BY: JEFFREY E. FOGEL, ESQUIRE 12 attorney, of counsel for the Plaintiff 13 (9113 E. Jefferson Road, Suite 200, Charlottesville, VA 22902) 14 15 16 OFFICE OF THE ATTORNEY GENERAL 17 BY: LAURA MAUGHAN, ESQUIRE, 18 ASSISTANT ATTORNEY GENERAL 19 attorney, of counsel for the Defendant 20 (202 N. 9th Street, 6th Floor, 21 Richmond, VA 23219) 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 LT. MICHELLE CARPENTER 2 was sworn and deposited as follows: 3 4 EXAMINATION 5 6 BY MR. FOGEL: 7 8 Q. Lieutenant Carpenter, I think you know that I am 9 Mr. Rowe's lawyer in this case? 10 11 A. Yes, sir. 12 13 Q. Have you ever been deposed before? 14 15 A. No, sir. 16 17 Q. Did you listen to the instructions that your lawyer 18 gave to my client? 19 20 A. Yes, sir. 21 22 Q. Did you understand them? 23 24 A. Yes, sir. 25 26 Q. Do you have any questions about that now? 27 28 A. No, sir. 29 30 Q. How we perform this? Thank you. 31 32 You are employed by the Virginia Department of 33 Corrections, correct? 34 35 A. Correct. 36 37 Q. In what capacity? 38 39 A. Institution investigator. 40 41 Q. Are you assigned to a particular institution?</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X 2 Deponent: Examination by: Page: 3 Lt. Michelle Carpenter Mr. Fogel 4 4 Ms. Maughan 52 5 Mr. Fogel 62 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 A. Yes, sir. 2 3 Q. Which one is that? 4 5 A. Sussex 2 State Prison. 6 7 Q. And how long have you been an institution 8 investigator at Sussex 2? 9 10 A. Since October 2017. 11 12 Q. And prior to that time where were you employed? 13 14 A. I was an intel officer in the same unit at Sussex 2 15 State Prison. 16 17 Q. What's the difference between what your job is now 18 and being an intel officer? 19 20 A. Intel officer I monitor phone calls. Institution 21 investigator they do more investigation than the intel 22 officer actually does. 23 24 Q. Then tell me what your responsibilities were. 25 26 A. For which one? 27 28 Q. As of now. 29 30 A. As of now? 31 32 Q. Since October 2017. 33 34 A. I'm the lead investigator. Right now I have two 35 intel officers. 36 37 Q. And what do you do? 38 39 A. I investigate stuff within the Department of 40 Corrections and outside the Department of Corrections. 41 42 Q. Do you investigate prisoners' conduct?</p>

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1 A. Yes, I do.
2 Q. Do you investigate staff conduct?
3 A. Yes, I do.
4 Q. And you investigate that conduct both outside as
5 well as within the prison walls?
6 A. Correct.
7 Q. And you do those investigations about prisoners
8 outside the walls?
9 A. Correct.
10 Q. As well as employees?
11 A. Correct.
12 Q. When did you first become aware of the existence of
13 Mr. Rowe?
14 A. I want to say it was 2018 in March.
15 Q. And how?
16 A. February or March.
17 Q. And how did he come to your attention?
18 A. Through a petition and some blogs going out.
19 Q. Okay. Tell me about the petition?
20 A. It was a petition going around dealing with riots.
21 Q. Dealing with them in what respect?
22 A. Inside of the institution.
23 Q. There was a petition going around dealing with riots
24 inside the institution?
25 A. Yes, and --

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1 Q. Discouraging them?
2 A. Correct.
3 Q. Discouraging them?
4 A. Correct.
5 Q. Who was circulating that petition?
6 A. Who was circulating?
7 Q. Yes.
8 A. It was several offenders.
9 Q. And were they asking for something?
10 A. No, they were talking about riot for not eating
11 chow, going to sit down stuff like that, officers were going
12 to get hurt.
13 Q. Don't riot?
14 A. Yes.
15 Q. And was there any connection to Mr. Rowe with that
16 petition?
17 A. I can't recall if he signed it. I can't recall if
18 he was involved in that riot or not within that time frame.
19 Q. Was there ever a riot?
20 A. No, it was not a riot, to set up a riot.
21 Q. I thought you said there was -- the thing was not to
22 riot?
23 A. They was trying to set up a riot for not to go to
24 chow to eat. It was like a petition going around.
25 Q. Okay. My question was how did you become aware of

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1 Mr. Rowe's existence in March of 2018. You started off
2 telling me about a petition.
3 A. Correct.
4 Q. Tell me about what Mr. Rowe's connection is to that
5 petition.
6 A. It was a petition going around. Mr. Rowe did sign
7 the petition, that he admitted to signing the petition that
8 was going around. He didn't know what it was for. And I
9 have seen the copy of the petition and everything and
10 Mr. Rowe did sign it.
11 Q. Okay. How many other people signed it?
12 A. It was numerous offenders.
13 Q. Pardon?
14 A. It was several offenders.
15 Q. Three, 300?
16 A. I'm going to say a good 40, 45.
17 Q. And how did you become aware of that petition?
18 A. By searching offender Pughsley's property.
19 Q. And when did you -- did you get the petition from
20 his property?
21 A. Yes, sir, we did.
22 Q. And that's where you saw Mr. Rowe's name?
23 A. Yes, sir.
24 Q. Among approximately 40 other people?
25 A. Correct.

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1 Q. Was there anything special about Mr. Rowe's name
2 among those 40?
3 A. No, sir, his name and state number was beside where
4 his signature was.
5 Q. Do you still have that petition?
6 A. Do I have it?
7 Q. Yeah.
8 A. Yes, I do have it in my file.
9 Q. Okay. I would ask that that be produced. Any
10 problem? Let me know if there's a problem.
11 MS. MAUGHAN: I think it would be best if you want
12 to make a document production request just do it all at once.
13 I don't want to rely on my notes.
14 Q. So when you saw Mr. Rowe's name there, did it stand
15 out in any way as compared to other approximately 40?
16 A. Not until he started sending blogs out, and it was
17 brought to our attention that they had seen Mr. Rowe's blog
18 on the internet.
19 Q. Prisoners are allowed access to the internet at
20 Sussex 2, are they not?
21 A. No, they're not.
22 Q. They're not allowed on the internet?
23 A. No, they're not.
24 Q. Are they allowed a JPay?
25 A. Yes, sir.

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<p style="text-align: right;">Page 10</p> <p>1 Q. Isn't JPay connected to the internet?</p> <p>2 A. No, it's connected to a kiosk machine.</p> <p>3 Q. How does JPay communicate with somebody outside the</p> <p>4 institution?</p> <p>5 A. They connect their JP5 player to the kiosk and</p> <p>6 transfer. It's not internet access for them to actually just</p> <p>7 sit there and go on the internet and pull up anything.</p> <p>8 Q. Right. But they can communicate with others through</p> <p>9 the Internet? That's an Internet connection, is it not?</p> <p>10 A. Yes, it is an internet connection, but I thought you</p> <p>11 meant something for computer internet access.</p> <p>12 Q. It's only good for e-mails?</p> <p>13 A. Correct.</p> <p>14 Q. And who has access to that operation, the JPay, any</p> <p>15 prisoner?</p> <p>16 A. Yes, as long as they have a JP 5 player.</p> <p>17 Q. Meaning that they bought one?</p> <p>18 A. Yes, so they can get up there now and actually just</p> <p>19 type if they don't have one.</p> <p>20 Q. Now, you became aware you said of certain blogs?</p> <p>21 A. Yes, sir.</p> <p>22 Q. How did you become aware of them?</p> <p>23 A. It was brought to our attention by Ms. Ryan.</p> <p>24 Q. Who's Ms. Ryan?</p> <p>25 A. She was a teacher that teaches commercial arts I</p>	<p style="text-align: right;">Page 12</p> <p>1 A. No. She just said it was very interesting, that she</p> <p>2 needs to go up there and read it.</p> <p>3 Q. Did she say why?</p> <p>4 A. She did not say why.</p> <p>5 Q. When someone comes to your office and says I think</p> <p>6 it's interesting, you should read it --</p> <p>7 A. She did not come to me. She told my intel officer.</p> <p>8 So whether they discussed it or not I have no answer for</p> <p>9 that.</p> <p>10 Q. Okay. So do you give any instructions to your intel</p> <p>11 officers?</p> <p>12 A. Yes, I do.</p> <p>13 Q. About when they should investigate things and when</p> <p>14 not?</p> <p>15 A. Yes. And when she got the information she called</p> <p>16 Ms. Brickhead, which is the operational manager, she's up</p> <p>17 under Warden, and she conducts further supervises the mail</p> <p>18 room, like incoming and outgoing mail. And she contacted her</p> <p>19 and let her know the information she had just received.</p> <p>20 Q. From?</p> <p>21 A. From Ms. Ryan.</p> <p>22 Q. So Ms. Brickhead also received information from Ms.</p> <p>23 Ryan?</p> <p>24 A. No, Ms. Brickhead received information from my intel</p> <p>25 officer.</p>
<p style="text-align: right;">Page 11</p> <p>1 want to say at Sussex 2 State Prison.</p> <p>2 Q. And she told you something?</p> <p>3 A. She came to my intel officer and was telling my</p> <p>4 intel officer about the blog that was going through the</p> <p>5 Internet.</p> <p>6 Q. What did she tell her?</p> <p>7 A. She told her that she believed Mr. Rowe had a blog</p> <p>8 page going that she needed to go up there and check it out</p> <p>9 and looked at it.</p> <p>10 Q. She as the art teacher?</p> <p>11 A. The commercial art told my intel officer that she</p> <p>12 needs to check Offender Rowe's blog that he had on the</p> <p>13 Internet, and she gave her the website to where the blog was</p> <p>14 posted on.</p> <p>15 Q. Do you know what Ms. Ryan's interest was in this</p> <p>16 matter?</p> <p>17 A. She was looking up something for her class.</p> <p>18 Q. And what did she say?</p> <p>19 A. She ran across Offender Rowe's information on the</p> <p>20 blog that she was actually on.</p> <p>21 Q. Did she tell your intel officer anything about the</p> <p>22 content of those blogs?</p> <p>23 A. Did I tell?</p> <p>24 Q. Did Miss Ryan tell your intel officer anything about</p> <p>25 the content of those blogs?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. And what did Ms. Brickhead say in response to</p> <p>2 that?</p> <p>3 A. Once they read the blog and then sent the JPay</p> <p>4 e-mail out, Ms. Brickhead instructed my intel officer to send</p> <p>5 it to censor.</p> <p>6 Q. So say after they read the blog?</p> <p>7 A. Yes.</p> <p>8 Q. How did you get access to the blog?</p> <p>9 A. We have internet access, sir.</p> <p>10 Q. So you had the URL address for the website?</p> <p>11 A. Yes.</p> <p>12 Q. And you typed that?</p> <p>13 A. Yes.</p> <p>14 Q. And who was present at that time, you were?</p> <p>15 A. Ms. Ryan and my intel officer.</p> <p>16 Q. Does Ms. Ryan have anything to do with intelligence</p> <p>17 at the prison?</p> <p>18 A. No, she does not, but if it's something dealing with</p> <p>19 the stuff that was inside of the content dealing with the</p> <p>20 prison she brought it to our attention.</p> <p>21 Q. Is she allowed to see E-mails that are sent out by</p> <p>22 prisoners?</p> <p>23 A. No, she's not. She didn't know anything about him</p> <p>24 sending out JPay e-mails.</p> <p>25 Q. So all she knew was that he had a blog?</p>

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CARPENTER, LT. on 05/31/2019

<p style="text-align: right;">Page 14</p> <p>1 A. That he had a blog, and she brought it to our 2 attention. And when he sent the JPays out, that's when we 3 was instructed to stop and send those to censor. 4 Q. Was there any concern in your mind about the fact 5 that he had a blog? 6 A. Was there in anything what? 7 Q. Concern in your mind about Mr. Rowe having a blog? 8 A. No. 9 Q. Well, then why are we looking at this? 10 A. I wasn't looking at it, it was brought to our 11 attention about the blog. Our concern was the JPays that 12 were being sent out. The blogs, no, but the JPays that were 13 being sent out, yes, we were concerned about some of them. 14 Q. Did you read any of them? 15 A. The JPays? 16 Yes, I did. 17 Q. How do you do that mechanically? 18 A. I log onto JPay from my facility. 19 Q. And? 20 A. The list comes up where everyone's sending out 21 JPays, and we go through each one of them and read them. We 22 have certain ones that we select and read, and the ones we 23 read and send them on. 24 Q. On a regular basis? 25 A. Regular basis.</p>	<p style="text-align: right;">Page 16</p> <p>1 on them we're allowed to receive that mail also. Once we've 2 read the mail going out, the mail is sent out through the 3 mail. 4 Q. Okay. 5 A. Mail that's coming in once we've read it, mail goes 6 directly to the offender at night -- 7 (Court reporter asks witness to repeat response). 8 A. The mail is coming in, mail is coming in and we have 9 a mail cover on the offender, we will read that mail. Once 10 we have read and everything is fine with the letter, it's 11 sent in to the offender for night time mail to be passed out. 12 Daytime mail is sent to the mail room, we read the mail. 13 Once we're fine with the content, if it's something we need to 14 hold we make a copy of it. Once we make a copy of it it's 15 sent back to United Postal Service. We do not hold the 16 offender's mail. 17 Q. So can you read every E-mail that's sent out through 18 JPay? 19 A. Can we read every last one? Yes we can read every 20 last one of them. 21 Q. There's no standard for when you get to read? 22 A. What do you mean no standard? 23 Q. Is there any -- you can read any E-mail that's sent 24 out through JPay? 25 A. Correct.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. And are those kept in a storage unit in the JPay? 2 A. Yes, it's sent to, it goes to security then it goes 3 to censor. 4 Q. So you could get -- one could get that from it now, 5 years past? 6 A. Yes. 7 Q. Things that have been censored you can get access 8 to? 9 A. Yes. 10 Q. Now, I take it you're familiar with the operating 11 procedure 803.1? 12 A. Yes, sir. 13 Q. Titled "Offender Correspondence"? 14 A. Correct. 15 Q. Now, is there a distinction in your mind or you've 16 been trained between letters going out by prisoners and 17 letters coming in from people on the outside? 18 A. Correct. 19 Q. And what distinction do you draw as an intelligence 20 officer? 21 A. What do I draw from it? 22 Q. Yes. 23 A. Mail that's going out we're allowed to read mail 24 that's going out to be suspicious as long as we have a mail 25 cover on them. Mail that's coming in if we have mail covered</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. You don't need any suspicion anything? 2 A. No, sir. 3 Q. But you are familiar with 803.1, are you not? 4 A. Correct. 5 Q. And are you familiar with this provision, "Outgoing 6 mail should not generally be searched unless there is a 7 reason for suspicion"? 8 A. Correct. That's why I say you have to have a mail 9 cover for mail being sent out. You have reasonable 10 suspicions they'll have mail covers placed on the offender's 11 mail and it's been held for me to go through with permission 12 for his mail to be read, anything suspicious. 13 Q. You said you could read the E-mail of anybody in the 14 institution. Is everyone suspicious? 15 A. E-mail is Jpay. 16 Q. Right. 17 A. Correct. 18 Q. Is everybody suspicious? 19 A. No, it's not suspicious, but JPay and regular mail 20 is totally different. 21 Q. So JPay you can read whatever you want, but regular 22 mail you can't? 23 A. No, sir. JPay is just like regular mail going out. 24 Mail that's going out through the institutional mail, as long 25 as I have that letter stating that I can hold that mail and</p>

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1 search that mail at any given time, I have reasonable
2 suspicion to read that mail. All the JPays you can't read
3 them, but if I go and have one that I have mail covers on or
4 have reasonable suspicions of, those are the ones that are
5 being read.

6 Q. So you get a letter from whom?

7 A. It's a letter from that we have for mail cover. It
8 has to be signed and approved.

9 Q. By who?

10 A. The Warden.

11 Q. And what is he approving?

12 A. He's approving me to hold incoming and outgoing for
13 reasonable suspicions like UHURU ROWE v. 3:18 HAROLD C. CLARKE
Admitted to the Bar by the Virginia State Bar

14 Q. For specific prisoners?

15 A. Correct.

16 Q. How often does he give it to you?

17 A. Whenever I fill it out and take it to him to have it
18 signed. See, when I take it to him --
19 (Court reporter asks witness to slow down)
20 MS. MAUGHAN: Take a breath and slow down.

21 A. I fill out the form with Offender Rowe, and I have
22 pending -- conducting investigation. Once I do that I send
23 it up front, put it in the Warden's box, wait for him to sign
24 it. Once he's signed off on it the mail room gets a copy and
25 I get a copy.

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1 Q. And what, with that armed with that letter?

2 A. That gives me permission to read incoming and
3 outgoing mail.

4 Q. E-mail?

5 A. Outgoing and incoming mail regardless of what kind
6 of mail it is, it's incoming or outgoing I have permission to
7 read it.

8 Q. Okay. But is there permission to read outgoing
9 E-mails subject to that list of suspicious persons?

10 A. Yes, it is.

11 Q. So you can look at every JPay?

12 A. I can look at every, but I'm not sitting there
13 reading every JPay. If I have reasonable suspicion Halasz Reporting & Video
PO Box 1644 Richmond, VA 23218-1644
14 offender I have my paperwork stating giving me permission to
15 read his incoming and outgoing mail.

16 Q. Okay. And did you do that with respect to
17 Mr. Rowe?

18 A. Yes, I did, sir.

19 Q. And can you tell me why?

20 A. Because I had ongoing investigation on him from the
21 blog and the information that my intel officer received from
22 Ms. Ryan.

23 Q. What was that information?

24 A. That he had a blog, and then when she started
25 reading his JPays about the JPays, that's when I told her she

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1 need to do a mail cover to give us permission to keep track
2 of his JPays and giving us permission to read his incoming
3 and outgoing mail.

4 Q. I'm a little confused. You said before you don't
5 care if he has a blog, correct?

6 A. Correct.

7 The blog didn't have any anything to do with the
8 JPay. JPay is -- the blog is totally internet. JPay is an
9 E-mail. That's not a blog. It's a JPay e-mail going out. A
10 blog is where he sends it to someone else, just like a
11 letter.

12 Q. Let's start off over.

13 A. Okay.

14 Q. Why were you suspicious of Mr. Rowe?

15 A. Why I was suspicious of Mr. Rowe from the
16 information that my intel officer received from Mrs. Ryan.

17 Q. Which was?

18 A. Which was a blog letter that he had been sending out
19 putting on his blog page. Letter that he was being sent
20 out.

21 Q. Without knowing the content?

22 A. I didn't know the content. So once we learned about
23 Mr. Rowe having this blog, that's when I instructed my intel
24 officer who was going to put a mail cover on Mr. Rowe's
25 outgoing and incoming mail.

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1 Q. And the only reason that was done was because you
2 learned that he had a blog?

3 A. Correct, and the information that was pertaining on
4 the blog, the information that was on the blog like the
5 letters pertaining to different things that was going on in
6 the blog. That's where we stepped in. And then she started
7 reading the JPays, and some had been sent to censors because
8 of the content that was inside of the JPay E-mail.

9 Q. What content?

10 A. He's naming people, talking about deaths, Johnny
11 Trane's death, and he's just naming staff at the institution
12 which I thought was critical because we're here for public
13 safety and offender safety, and he's putting that on a blog.

14 You never know you walk out of an institution and that
15 person's family member or somebody standing out there waiting
16 for you to assault and hurt you. You never know. By putting
17 that on a blog and everybody has the option to read anything
18 on the internet as long as you have internet, and they come
19 there looking for a Mr. Mills, and because of Johnny Trane's
20 death he's putting his life in critical condition -- I mean
21 in harm's way.

22 Q. How many people at the Sussex II have blogs? How
23 many prisoners?

24 A. I have no knowledge, sir. I know Mr. Rowe had one
25 when he was there at Sussex 2 State Prison.

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<p style="text-align: right;">Page 22</p> <p>1 Q. Do you know anybody else who had a blog?</p> <p>2 A. No, sir, I do not.</p> <p>3 Q. Did you check?</p> <p>4 A. No, sir, I did not.</p> <p>5 Q. Because?</p> <p>6 A. Because I was onto the one for --</p> <p>7 Q. So you looked at the content of the blog?</p> <p>8 A. Correct.</p> <p>9 Q. You didn't yet have a letter from Warden, did you?</p> <p>10 A. That was on the internet that I looked at. I didn't</p> <p>11 have to have a letter from the internet.</p> <p>12 Q. I understand.</p> <p>13 A. Correct. <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small></p> <p>14 Q. So let's start again. You looked, you found out he</p> <p>15 had a blog?</p> <p>16 A. Correct.</p> <p>17 Q. You looked on that blog?</p> <p>18 A. Uh-huh.</p> <p>19 Q. You read some of the content?</p> <p>20 A. Yes.</p> <p>21 Q. You didn't yet have a letter from the Warden?</p> <p>22 A. No.</p> <p>23 Q. Allowing you to review his JPay, his --</p> <p>24 A. Correct.</p> <p>25 Q. So you then, armed with the information that he had</p>	<p style="text-align: right;">Page 24</p> <p>1 outgoing and incoming mail as long as I have permission to</p> <p>2 sign.</p> <p>3 Q. Yes or no, the Warden does not know what suspicion</p> <p>4 you have when you ask for that cover letter. Is that</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And when the Warden authorizes you, he doesn't know</p> <p>8 why you want to do this, does he, except investigation? He</p> <p>9 doesn't know anything about the underlying reason for your</p> <p>10 investigation?</p> <p>11 A. He was aware of this situation, sir.</p> <p>12 Q. How was he aware of it?</p> <p>13 A. Through my intel officer Ms. Brickhead. Ms.</p> <p>14 Brickhead was the operational manager. My intel officer</p> <p>15 passed the information down to Ms. Brickhead.</p> <p>16 Q. Information is not helpful to me. Ms. Ryan passed</p> <p>17 what to Ms. Brickhead?</p> <p>18 A. Ms. Ryan passed the blog information --</p> <p>19 Q. The fact that there was a blog --</p> <p>20 A. Correct.</p> <p>21 MS. MAUGHAN: Can you please let her finish?</p> <p>22 MR. FOGEL: I'm having trouble getting answers.</p> <p>23 MS. MAUGHAN: I'm going to object a little bit to</p> <p>24 your tone. I think if your tone was a little bit more polite</p> <p>25 Ms. Carpenter could answer the questions. Just slow it down</p>
<p style="text-align: right;">Page 23</p> <p>1 a blog and the content of what you saw on that blog, you went</p> <p>2 to the Warden and asked for a cover letter?</p> <p>3 A. I explained to him the information that we received</p> <p>4 and I asked him --</p> <p>5 Q. Well, you telling me I told him about information --</p> <p>6 A. Yes.</p> <p>7 Q. -- it's meaningless to me. I need to know what</p> <p>8 information you told him.</p> <p>9 A. Okay.</p> <p>10 Q. So what did you tell him?</p> <p>11 A. I told him I had a mail cover letter that I need to</p> <p>12 sign that I was putting a mail cover on Offender Rowe.</p> <p>13 Q. You don't have to tell him why? <small>Halasz Reporting & Video 804.708.0025 PO Box 1644 Richmond, VA 23218-1644</small></p> <p>14 A. I had conducting investigation.</p> <p>15 Q. You don't have to tell him why?</p> <p>16 A. No, I did not.</p> <p>17 Q. You don't tell him why? He signs a letter</p> <p>18 authorizing you to look at suspicious E-mails but you don't</p> <p>19 told him why you want to look at them?</p> <p>20 A. If I'm conducting an investigation, once I got all</p> <p>21 my findings then I pass the information down to my Warden.</p> <p>22 Q. So the Warden gives you permission to review E-mails</p> <p>23 without knowing why you want to review these E-mails, is that</p> <p>24 correct?</p> <p>25 A. Correct. I have reasonable suspicions to read any</p>	<p style="text-align: right;">Page 25</p> <p>1 a little bit, I think that would help everything.</p> <p>2 MR. FOGEL: Let's try.</p> <p>3 Q. Did she give him any other information other than</p> <p>4 the fact that there was a blog?</p> <p>5 A. No.</p> <p>6 Q. And that's what Mr. -- what the Warden knew was that</p> <p>7 there was a blog?</p> <p>8 A. It was about the blog. And once we learned about</p> <p>9 the blog we went to the JPays, and that's when we started</p> <p>10 finding information about the JPays.</p> <p>11 Q. When you say about the blog, do you mean about the</p> <p>12 existence of the blog?</p> <p>13 A. Correct.</p> <p>14 Q. Not about the substance of the blog?</p> <p>15 A. Correct.</p> <p>16 Q. So once you knew about the blog, you say you want to</p> <p>17 look at some of the JPay E-mails?</p> <p>18 A. Correct.</p> <p>19 Q. But not until you had that cover letter, correct,</p> <p>20 from the Warden?</p> <p>21 A. Correct.</p> <p>22 Q. The Warden knew that there was a blog?</p> <p>23 A. Correct.</p> <p>24 Q. Did he know anything else?</p> <p>25 A. Not at the time, no.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. And as a normal matter you don't even tell him what 2 prompts your investigation, is that correct?</p> <p>3 A. Yes, I do tell him, yes.</p> <p>4 Q. Okay. But you didn't in this Instance?</p> <p>5 A. Yes.</p> <p>6 Q. You did tell him?</p> <p>7 A. Yes.</p> <p>8 Q. What did you tell him?</p> <p>9 A. I learned that Mr. Rowe had the blog and I needed to 10 put a mail cover on him to gain more information.</p> <p>11 Q. Is that all you told him?</p> <p>12 A. Yes, until I started getting the JPay E-mails, and 13 once the JPay E-mails were provided to us, that's when 14 they had my intel officer starts to censor.</p> <p>15 Q. You went in to look at the JPay E-mails after you 16 got the cover letter from the Warden?</p> <p>17 A. Correct.</p> <p>18 Q. And the Warden at that time was?</p> <p>19 A. Mr. Ray.</p> <p>20 Q. Do you recall approximately how soon after you spoke 21 to the Warden that you looked at these JPay E-mails?</p> <p>22 A. No, I don't recall.</p> <p>23 Q. Couple of weeks?</p> <p>24 A. About two or three days.</p> <p>25 Q. Okay. And how many, do you recall how many you</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Do you know who that was and what E-mails they 2 read?</p> <p>3 A. No, I do not know which E-mails they read.</p> <p>4 Q. Do you know which E-mails you read?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you take notes when you're reading these 7 E-mails?</p> <p>8 A. No, sir.</p> <p>9 Q. Did you pick out an E-mail to send to -- I think you 10 said if there's a problem you send it to security?</p> <p>11 A. Send it to security, correct.</p> <p>12 Q. Did you pick out any that you thought were a 13 problem?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And can you tell us as best as you can recall what 16 the content was and why it was that you sent that particular 17 essay to security?</p> <p>18 A. I can't recall what date it was, but in one of those 19 JPays it was talking about staff.</p> <p>20 Q. Do you mean the names?</p> <p>21 A. Yes.</p> <p>22 Q. All right.</p> <p>23 A. Inside of content it had the staff names and talking 24 about offender's death, which was Johnny Trane I had spoke 25 about earlier.</p>
<p style="text-align: right;">Page 27</p> <p>1 found?</p> <p>2 A. No, sir.</p> <p>3 Q. Okay. You read through them?</p> <p>4 A. Yes.</p> <p>5 Q. All of them?</p> <p>6 A. No, I didn't go through all of them.</p> <p>7 Q. You went through -- how did you choose which ones to 8 go through?</p> <p>9 A. Because my intel officer had access, so all of us in 10 the unit, whichever ones we get to that's how we just go 11 through and do them. We do different ones every day.</p> <p>12 Q. You did -- you picked out some to read?</p> <p>13 A. Okay, this is how it is. When you have everyone 14 has access to the JPay because it's in the intel department. 15 I might not be there today. My intel officer might be there 16 today, so they will read the E-mail. So they feel like this 17 needs to be sent to security, then it's sent over to 18 security. And then it's sent over to censor and that's where 19 it stays at, in censor.</p> <p>20 Q. I'm still confused.</p> <p>21 Did you read E-mails that were sent by Mr. Rowe?</p> <p>22 A. Yes, I have some of them.</p> <p>23 Q. Are you saying that one of your -- one of the people 24 who works for you also read E-mails?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Anything else?</p> <p>2 A. And due to the content in the letter with the JPay 3 E-mail it was like putting staff and offenders' life in 4 jeopardy because you're naming these people and they have no 5 idea that this is actually being sent out. They can go out 6 into society and something happens, and it was like it's not 7 a threat, but it was like harmful to them in harm's way for 8 being out in the community.</p> <p>9 Q. Have you run into that problem?</p> <p>10 A. What problem before, sir?</p> <p>11 Q. Of prisoners sending out mail or E-mails that have 12 the name of particular staff people in them?</p> <p>13 A. Yes, I have ran into it, but if it's not critical, 14 if I don't think it's critical then I don't send it. If I 15 think it's critical then I do not send it out. And the 16 E-mail that was being sent out I think was critical to staff 17 and the offender's family because they could have got wind of 18 it and found out who Mr. Mills, where he lived at and do harm 19 to him in the community.</p> <p>20 Q. How do you distinguish that particular communication 21 with the name of the staff member with the communications 22 that had staff member's names that you didn't censor or that 23 you didn't think was a problem?</p> <p>24 A. The ones that were censored had staff names in them. 25 I thought it had critical information that I thought would</p>

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1 being putting staff into harm's way.
2 Q. Have you seen any other communications by prisoners
3 either through E-mail or through letters which contain the
4 names of staff members in them?
5 A. It depends on how they send it. If Joe Blow said
6 the beans won't good, no.
7 Q. Have you ever seen --
8 A. Yes.
9 Q. Okay. That's all I asked. And what distinguishes
10 those from the ones that you saw on the E-mails of Mr.
11 Rowe?
12 A. The ones of Mr. Rowe the way I took it was critical
13 to staff and to the community. UHURU ROWE v. 3:18 HAROLD C. CLARKE
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14 Q. Okay.
15 A. The other ones they were not critical. They were,
16 they could talk about how the food was good or whatever, Joe
17 Blow didn't come to work or whatever. But critical
18 information as far as Mr. Mills and Offender Trane I thought
19 this was very critical to the community.
20 Q. So your only concern was the criticism of that
21 particular staff person?
22 A. No, it was more than one staff person. I don't
23 recall how many more JPays there were, sir.
24 Q. In that particular JPay, was only one staff person's
25 name?

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1 A. I can't remember how many more people was in
2 there.
3 Q. You also mentioned he was critical of things going
4 on at Sussex 2.
5 MS. MAUGHAN: Objection to the characterization of
6 that testimony. It's not that Ms. Carpenter testified that
7 the E-mails were critical of someone, it's that they were
8 critical more in the context of critical importance is to
9 what I understand she testified, given the content and --
10 MR. FOGEL: And your objection is?
11 MS. MAUGHAN: To the characterization -- to your
12 characterization of her testimony in asking her about what
13 she found critical.
14 Q. Did you find anything in those letters that were
15 critical of the institution itself?
16 A. To the institution itself?
17 Q. Yes.
18 A. No, but it was critical to Mr. Mills and Offender
19 Trane's death part, yes, for Mr. Trane's death, because it's
20 not what you hear.
21 MS. MAUGHAN: Let's clarify critical to and critical
22 of. What do you mean when you say critical to?
23 A. It's harm to Mr. Mills and whoever else was inside
24 of that JPay e-mail. I can't recall who else was inside of
25 it. But the offender's death part that's -- they talk about

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1 that all day. I don't see that being critical, but as far as
2 naming staff and what they did and what could have been
3 prevented, that's putting a staff member's life in jeopardy
4 by being out in the community.
5 MS. MAUGHAN: And when we say critical of someone,
6 we can be critical of that something happened, the beans were
7 bad, the food is not good, that is a criticism. But in your
8 understanding --
9 A. It's critical, right.
10 Q. Did you note anything in those JPay E-mails that
11 were critical of the institution of Sussex 2 Prison?
12 A. Some of the JPays, correct.
13 Q. How about the one we're talking about?
14 A. Correct.
15 Q. Okay. Did that add to your concerns?
16 A. Yes, it did.
17 Q. How so?
18 A. Once again because it was critical.
19 Q. Of the institution?
20 MS. MAUGHAN: I think again --
21 MR. FOGEL: No, no, stop. I know you don't like
22 what she said, but you're going to have to live with it
23 because that's what she said and that's what's the truth. So
24 you can't just jump in because you didn't like what your
25 client said.

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1 MS. MAUGHAN: I think there's a miscommunication
2 between your use of the word critical and hers.
3 MR. FOGEL: Well, you can do it on redirect, you
4 know that.
5 Q. Let's try to straighten this out. Was there
6 anything in that JPay E-mail that you read that concerned you
7 that included information that was critical of Sussex II as
8 an institution, not as to the individuals that you've
9 mentioned?
10 A. No.
11 Q. Nothing that was -- was there anything in there that
12 was critical of the institution?
13 A. Yes.
14 Q. And that didn't bother you?
15 A. Yes.
16 Q. It did bother you?
17 A. Yes, it did.
18 Q. Why did it bother you?
19 A. It bothered me due to the fact that it was naming
20 people.
21 Q. Why did the criticism of the institution bother
22 you?
23 A. Because we're here for protection of --
24 Q. So --
25 A. We're here for protection of staff and offenders,

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<p style="text-align: right;">Page 34</p> <p>1 and the stuff bothered me because of the fact that it was 2 naming people that really shouldn't have to go out here and 3 deal with it like that. 4 Q. It appears you don't want to answer my question, but 5 I will take it that since you don't want to answer it it's 6 because you felt uncomfortable with the answer. 7 A. Okay. 8 Q. But you have already told us that you were concerned 9 about Mr. Rowe's criticism of the institution as well as the 10 mention of the two names in that body, in the body of that 11 JPay, correct? 12 A. Correct. 13 Q. Okay. Then did you go to the Warden with that 14 information? 15 A. I cannot recall when I went to him. 16 Q. When did you go to security with that information? 17 A. What do you mean security? 18 Q. Well, you say that if there was a concern about an 19 outgoing mail or E-mail you would give it to security. Isn't 20 that what you said? 21 A. My intel, we are security. 22 Q. Okay. There's no separate institution called 23 security? 24 A. No other security who I give it to. 25 Q. So when you said security before, if you said it,</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. So their security? 2 A. To their security for JPay. From Jay we send to 3 security to their censor. 4 Q. Now I understand. Security you were referring to 5 refers to the security of the JPay? 6 A. Correct. 7 Q. Did you do anything else? 8 A. No, sir. 9 Q. Did you confront Mr. Rowe? 10 A. I believe I did interview Mr. Rowe twice. 11 Q. How soon after you had censored or arranged to 12 sensor that, how many E-mails do you recall that you 13 censored? 14 A. I can't recall how many I censored, sir. 15 Q. And how long after that did you speak to Mr. Rowe? 16 Do you recall approximately? 17 A. I can't recall. 18 Q. Okay. Do you remember recommending Mr. Rowe to be 19 in administrative segregation? 20 A. No, I did not. 21 Q. You never did? 22 A. No, I did not. 23 Q. Were you aware that he had been in administrative 24 segregation? 25 A. Yes, I had.</p>
<p style="text-align: right;">Page 35</p> <p>1 you meant yourself? 2 A. Correct. 3 Q. In the future when you mean yourself could you just 4 say yourself instead of someone that seems like a third party 5 or separate institution? 6 A. Uh-huh. 7 Q. You went to the Warden to get permission to review 8 those JPays? 9 A. Any incoming or outgoing mail. 10 Q. Right. And at that juncture you hadn't read any of 11 the mail, just the blogs? 12 A. Correct. 13 Q. So you went in and read the mail, and you found some 14 that you thought were problematic, is that correct? 15 A. Correct. 16 Q. What did you do with them? 17 A. They sent them to censor. 18 Q. Pardon me? 19 A. They were sent to security, then they go to 20 censor. 21 Q. Security is you? 22 A. No, JPay, you either approve it, you approve it or 23 you send it to security. Send it to security is a like a web 24 thing that they have on for JPay where they send it to 25 security.</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Do you know why? 2 A. It was due to the Pughsley. 3 Q. Petition? 4 A. -- petition, correct. 5 Q. What about it? 6 A. What do you mean what about it? 7 Q. You said it was due to the petition. What aspect of 8 the petition led to hi being put in -- 9 A. The information that we received that Pughsley and 10 Mr. Rowe was going around with a petition trying to have 11 other offenders sign it. They were sent over to Sussex 1 to 12 confinement, which is RHU, until further investigation was 13 conducted. 14 Q. Were you involved in that at all? 15 A. Involved in? 16 Q. In investigation, in the prosecution, any of that? 17 A. Yes, I was. 18 Q. What was your role? 19 A. Once we gained the information and got the 20 information from Offender Pughsley and we searched Mr. Rowe's 21 property, I don't recall getting anything out of Mr. Rowe's 22 property. When I went over there and explained to him that 23 he would be coming back to Sussex II, then he was not 24 institutional charged if I'm not -- I don't think he was 25 institutional charged.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. And that was all your involvement?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You were sitting here through Mr. Rowe's</p> <p>4 testimony. I assume you were listening, correct?</p> <p>5 A. Yes.</p> <p>6 Q. You heard Mr. Rowe testify there were instances</p> <p>7 where it appeared that his E-mails had been delayed for</p> <p>8 several weeks?</p> <p>9 A. Correct.</p> <p>10 Q. Are you aware of any such E-mails being delayed?</p> <p>11 A. Yes, I have.</p> <p>12 Q. Okay.</p> <p>13 A. We don't -- we try to read them every day.</p> <p>14 Sometimes we don't get a chance to read them every day. So</p> <p>15 the ones that we do have mail cover on and to go back to do</p> <p>16 once we have a chance we try to get them sent out as soon as</p> <p>17 possible within 24 to 72 hours. Sometimes our schedule gets</p> <p>18 thrown back dealing with another problem in the institution.</p> <p>19 As soon as we get to them we try to send them straight out.</p> <p>20 Q. So there will be instances in which a JPay e-mail</p> <p>21 was sent out, you have printed it out but haven't acted on it</p> <p>22 yet, correct?</p> <p>23 A. No.</p> <p>24 Q. Because you haven't had a chance to read it?</p> <p>25 A. No, it would not just sit there until we actually</p>	<p style="text-align: right;">Page 40</p> <p>1 the names of a staff member in connection with the death of</p> <p>2 somebody?</p> <p>3 A. I sent it to security.</p> <p>4 Q. All right. And then did you speak to Ms. Brickhead</p> <p>5 about it?</p> <p>6 A. Yes, I printed it out.</p> <p>7 Q. Before you sent it to security, right?</p> <p>8 A. I put -- I sent it to security so I can go back into</p> <p>9 it. It would never go no where as long as I had it there.</p> <p>10 Q. And you can retrieve it back from security?</p> <p>11 A. I can go back and retrieve it from security. So</p> <p>12 once I go there and sent to security, I pulled it back and</p> <p>13 sent it to Brickhead and printed off and let her know what I</p> <p>14 have. And she was like she would give me permission to</p> <p>15 either send it or send it to censor.</p> <p>16 Q. And she did in this instance?</p> <p>17 A. Correct.</p> <p>18 Q. Did she share with you what her concerns were about</p> <p>19 the JPay that you brought to her?</p> <p>20 A. No, she started off with my intel officer when they</p> <p>21 first started off with the JPays, and she instructed them to</p> <p>22 send the ones like that straight to --</p> <p>23 Q. Security?</p> <p>24 A. -- security, yeah, it goes to security, then it go</p> <p>25 up to censor.</p>
<p style="text-align: right;">Page 39</p> <p>1 open it up and approve it to be sent or sent to security.</p> <p>2 Q. Okay. And that would be the explanation at least</p> <p>3 for some delays at some times?</p> <p>4 A. Correct.</p> <p>5 Q. When you looked at the E-mails that you censored, or</p> <p>6 you understand what I mean you censored, did you converse</p> <p>7 with anybody about whether they should be censored?</p> <p>8 A. We spoke with Ms. Brickhead, which was the</p> <p>9 operations manager, and that's why they were sent to</p> <p>10 censored.</p> <p>11 Q. Because Ms. Brickhead said to do so?</p> <p>12 A. She was the operational manager and she's over Top</p> <p>13 of the mail room that's like outgoing mail, and she was</p> <p>14 advised of the information and everything and she was like</p> <p>15 they cannot go out. So she gave us permission not to send</p> <p>16 that JPay E-mail out.</p> <p>17 Q. You don't have the authority on your own?</p> <p>18 A. Do I have the authority? I have a boss too, but</p> <p>19 that's who I follow up. If I feel like they need to go, then</p> <p>20 I'll tell them what I have and they'll give me permission to</p> <p>21 send it or not send it.</p> <p>22 Q. They being?</p> <p>23 A. Ms. Brickhead and above.</p> <p>24 Q. Okay. Let's talk about Mr. Rowe. When you looked</p> <p>25 at it you thought there was a concern because he mentioned</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Now, you have read lots of Mr. Rowe's E-mails I take</p> <p>2 it?</p> <p>3 A. Yes.</p> <p>4 Q. Did you ever see another E-mail where he mentioned</p> <p>5 the name of a staff member?</p> <p>6 A. Yes.</p> <p>7 Q. And did you censor every one of those?</p> <p>8 A. I can't recall if I did or if I didn't.</p> <p>9 Q. You might not have?</p> <p>10 A. I might have, but I can't recall if I did, if I</p> <p>11 didn't.</p> <p>12 Q. So you might not have?</p> <p>13 A. I might not have, but I can't recall.</p> <p>14 Q. Can you tell me the circumstances where you wouldn't</p> <p>15 censor it even though it had the name of a staff member in</p> <p>16 it?</p> <p>17 A. I wouldn't censor it if he just saying something</p> <p>18 general about a staff member. But something critical I would</p> <p>19 send to security until further notice.</p> <p>20 Q. Can you explain what you mean by critical?</p> <p>21 A. Critical would be harm's way, assaulted, threats,</p> <p>22 anything like that I would send it to security. Anything</p> <p>23 else I would just send it to -- I print it off and just sent</p> <p>24 it off.</p> <p>25 Q. There were no threats in this E-mail, were there?</p>

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<p style="text-align: right;">Page 42</p> <p>1 A. In what E-mail?</p> <p>2 Q. The one we're talking about, the one that you</p> <p>3 censored. The first one you censored.</p> <p>4 MS. MAUGHAN: If you're going to ask about a</p> <p>5 specific E-mail we need to see the specific E-mail.</p> <p>6 A. I can't recall.</p> <p>7 MR. FOGEL: That was marked as part of D1. Do we</p> <p>8 have D1 here?</p> <p>9 MS. MAUGHAN: D1 was the complaint with the</p> <p>10 attachments.</p> <p>11 You have got the complaint right in front of you.</p> <p>12 Q. I'm going to show you what's attached to Defendant's</p> <p>13 Exhibit 1, which was the Complaint. And it says on here A,</p> <p>14 but that's not for this purpose. Is that familiar to you?</p> <p>15 A. Yes.</p> <p>16 Q. And is that one of the E-mails that you had</p> <p>17 censored?</p> <p>18 A. I can't say if I censored it or not.</p> <p>19 Q. Do you know what was censored? Do you know what you</p> <p>20 censored?</p> <p>21 A. I can't say if I censored it or not, because someone</p> <p>22 in my intel department could have censored it. I don't know</p> <p>23 which ones I have read, but I have seen it before.</p> <p>24 Q. How would you know who did it?</p> <p>25 A. It would tell you.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. You had never seen it before that?</p> <p>2 A. No.</p> <p>3 Q. So you don't know, as far as you know this had never</p> <p>4 been censored, the content of the document that you have in</p> <p>5 front of you?</p> <p>6 A. I don't know if it's been censored or not, but I saw</p> <p>7 the letter.</p> <p>8 Q. But if you knew it had been censored you wouldn't</p> <p>9 allow this letter to go out, would you?</p> <p>10 A. Not me, no, sir.</p> <p>11 Q. But you allowed this letter to go out?</p> <p>12 A. Correct.</p> <p>13 Q. So you didn't have any idea that it was censored?</p> <p>14 A. Correct.</p> <p>15 Q. And you don't know as you sit here now who, if</p> <p>16 anyone, would have censored it?</p> <p>17 A. No.</p> <p>18 Q. But there is a way to find out?</p> <p>19 A. Yes.</p> <p>20 Q. Is it a marking on the security system that marks</p> <p>21 who entered the request?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So you said you were concerned about the</p> <p>24 names that were in this document, a document?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. What would tell you?</p> <p>2 A. I would have to go back and pull it up as to</p> <p>3 actually who read it, but I have seen this before.</p> <p>4 Q. And you're saying you don't know whether or not you</p> <p>5 censored it or not?</p> <p>6 MS. MAUGHAN: I'm going to object to the extent</p> <p>7 you're talking about Exhibit A to Plaintiff's Complaint,</p> <p>8 which is not an E-mail. SO we're talking about censoring</p> <p>9 E-mails, that's difference than this A, so I think it needs</p> <p>10 to be clarified what we're talking about.</p> <p>11 Q. It's already been gone through. But can you</p> <p>12 identify the document you have in front of you?</p> <p>13 A. Yes, it's a letter.</p> <p>14 Q. You have seen it before?</p> <p>15 A. Handwritten.</p> <p>16 Q. You have seen it before?</p> <p>17 A. Yes, it went out through the mail.</p> <p>18 Q. Through the?</p> <p>19 A. Regular mail, U.S. Postal mail.</p> <p>20 Q. And did you review it before it went out?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And you let it go out?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Had you seen it before that?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Was this the document that you were concerned about</p> <p>2 the names?</p> <p>3 A. No.</p> <p>4 Q. Sorry?</p> <p>5 A. No, sir.</p> <p>6 Q. No?</p> <p>7 A. There was no names included in this document.</p> <p>8 Q. Let me show you another document and ask you if you</p> <p>9 have seen that before.</p> <p>10 A. Yes.</p> <p>11 Q. Have you seen it before?</p> <p>12 A. Yes.</p> <p>13 Q. Can you recall when and where?</p> <p>14 A. On JPay if I'm not mistaken.</p> <p>15 Q. And you read it at that time?</p> <p>16 A. I can't say if I read it or not.</p> <p>17 Q. Do you know whether or not this document was</p> <p>18 censored?</p> <p>19 A. Do I know if it was censored or not?</p> <p>20 Q. Yes.</p> <p>21 A. I can't recall.</p> <p>22 Q. But there is a way to find out?</p> <p>23 A. Yes.</p> <p>24 Q. And I assume since you can't recall, you wouldn't</p> <p>25 know whether it was you or somebody else?</p>

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<p style="text-align: right;">Page 46</p> <p>1 A. Correct.</p> <p>2 Q. So we have the same issue on both of them. Okay.</p> <p>3 Now just very quickly, you don't have the authority</p> <p>4 on your own to censor mail, do you?</p> <p>5 A. No, I do not.</p> <p>6 Q. Just JPays, only with the cover letter from the</p> <p>7 Warden?</p> <p>8 A. Correct.</p> <p>9 Q. Now, does it get back to the Warden the specific</p> <p>10 items that you've censored? If you censor something, you</p> <p>11 have had permission from the Warden to censor anything,</p> <p>12 you've told us that you often go talk to Ms. Brickhead about</p> <p>13 whether to censor it?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Or is that always?</p> <p>16 A. No, it depends on the type incident that we're</p> <p>17 dealing with, and she will advise us if we can censor it or</p> <p>18 send it on.</p> <p>19 Q. And this instance with Ms. Rowe you spoke with Ms.</p> <p>20 Brickhead?</p> <p>21 A. Correct.</p> <p>22 Q. And she was the one who could authorize that</p> <p>23 censorship at that time?</p> <p>24 A. Correct.</p> <p>25 Q. Not you?</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Correct.</p> <p>2 Q. And only the Warden can get the final word, at least</p> <p>3 at the institutional level. Is that correct?</p> <p>4 A. (Nods head yes).</p> <p>5 Q. Is that yes?</p> <p>6 A. Correct.</p> <p>7 Q. Now, in response to at least one of the essays that</p> <p>8 Mr. Rowe claims was censored, you -- well, this is at</p> <p>9 Defendant's 3. You said inspection, I'm sorry, I shouldn't</p> <p>10 say you said. Do you see the signature there on the left on</p> <p>11 the bottom?</p> <p>12 A. Yes.</p> <p>13 Q. That is your signature?</p> <p>14 A. Correct.</p> <p>15 Q. Would You read that to us?</p> <p>16 A. "Inspection of offender correspondence according to</p> <p>17 operation procedures 803.1 correspondence is read, censored</p> <p>18 or rejected based on facility interest of order and</p> <p>19 security".</p> <p>20 Q. You didn't explain to him that it had to do with him</p> <p>21 naming people in a situation where they could be at risk?</p> <p>22 A. No, I did not.</p> <p>23 Q. But that would have informed him for the future,</p> <p>24 wouldn't it have?</p> <p>25 A. I mean the contents, he would receive something from</p>
<p style="text-align: right;">Page 47</p> <p>1 A. Correct.</p> <p>2 Q. Now, when an appeal is taken from a decision, for</p> <p>3 example to censor something, who does it go to first?</p> <p>4 Informally it would go to you, wouldn't it?</p> <p>5 A. Say that again.</p> <p>6 Q. The informal complaint would come to you about</p> <p>7 Censorship of a JPay e-mail?</p> <p>8 A. Yes.</p> <p>9 Q. And it would be your responsibility to respond?</p> <p>10 A. Correct.</p> <p>11 Q. And an appeal from that decision was -- well, not a</p> <p>12 decision, you're simply responding to the informal</p> <p>13 complaint?</p> <p>14 A. Correct.</p> <p>15 Q. And then do you understand the grievance</p> <p>16 procedure?</p> <p>17 A. Yes.</p> <p>18 Q. And then the prisoner if they want to they can file</p> <p>19 a regular grievance?</p> <p>20 A. Correct.</p> <p>21 Q. And that doesn't go to you?</p> <p>22 A. Correct.</p> <p>23 Q. That goes to the intake officer?</p> <p>24 A. Yes.</p> <p>25 Q. And eventually it goes to the Warden?</p>	<p style="text-align: right;">Page 49</p> <p>1 JPay saying it was censored. So that's telling him it was</p> <p>2 violation of policy and procedure when he received the</p> <p>3 notification back.</p> <p>4 Q. But he'll never find out what policy or procedure it</p> <p>5 was if you don't tell him?</p> <p>6 A. I told him on correspondence 803.1.</p> <p>7 Q. How many pages is 803.1? Can you count them?</p> <p>8 A. 21.</p> <p>9 Q. Okay. And are they single lines? They're not</p> <p>10 double spaced, they're single lines and they're both sides of</p> <p>11 the page, aren't they?</p> <p>12 A. Yes, sir.</p> <p>13 Q. So it's a very simple matter to just do that?</p> <p>14 MS. MAUGHAN: Objection to form.</p> <p>15 Q. To know that this is -- that the reason is why</p> <p>16 you're rejecting that correspondence?</p> <p>17 MS. MAUGHAN: Objection to form. That's not a</p> <p>18 question.</p> <p>19 Q. Are you obligated to tell prisoners why you're</p> <p>20 rejecting their correspondence?</p> <p>21 A. Once their correspondence is rejected it goes back</p> <p>22 to the JPay and informs them why it was rejected. They have</p> <p>23 a dropdown list of violation policies and procedures, and</p> <p>24 it's sent back to their JPay.</p> <p>25 MR. FOGEL: Could you read back the question,</p>

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<p style="text-align: right;">Page 50</p> <p>1 please?</p> <p>2 THE COURT REPORTER: "Are you obligated to tell</p> <p>3 prisoners why you're rejecting their correspondence?"</p> <p>4 A. Yes.</p> <p>5 Q. And in your opinion it suffices to say look at this</p> <p>6 21 page document, you'll find it there somewhere? Does that</p> <p>7 fulfill your obligation?</p> <p>8 A. Yes, sir.</p> <p>9 Q. It does? Okay. And that's what you always wrote</p> <p>10 when you responded?</p> <p>11 A. Correct.</p> <p>12 Q. That it was somehow a violation of something in OP</p> <p>13 803.1, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Did you know what it was a violation of in 803.1?</p> <p>16 A. Policies and procedure.</p> <p>17 Q. What in particular? If you look at 21 pages.</p> <p>18 A. So do you want me to tell the page number?</p> <p>19 Q. I want to know the provision. I don't care about</p> <p>20 the page number. What provision is it that you're relying to</p> <p>21 say everything was done based on that procedure?</p> <p>22 MS. MAUGHAN: I'm going to object to relevance of</p> <p>23 this line of inquiry. You can answer if you know.</p> <p>24 A. It's on page 12 of 21, sir.</p> <p>25 Q. And the section is the one that's highlighted?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Just very quickly, you may not search unless there's</p> <p>2 a reason for suspicion?</p> <p>3 A. Correct.</p> <p>4 Q. Your reason for suspicion in this particular</p> <p>5 instance with Mr. Rowe was that your knowledge that he had a</p> <p>6 blog?</p> <p>7 A. Correct.</p> <p>8 Q. And that was all you knew?</p> <p>9 A. At the time.</p> <p>10 Q. That led you to suspect that what he was sending out</p> <p>11 on JPay would somehow violate 803.1?</p> <p>12 A. Correct.</p> <p>13 Q. I have no further questions.</p> <p>14</p> <p>15 BY MS. MAUGHAN:</p> <p>16</p> <p>17 Q. Ms. Carpenter, I believe you testified that you</p> <p>18 first became aware of Mr. Rowe's existence in March or</p> <p>19 February 2018. Does that sound right?</p> <p>20 A. Correct.</p> <p>21 Q. And explain to me again what your testimony was</p> <p>22 about how you came to be aware of Mr. Rowe.</p> <p>23 A. Ms. Ryan, she came to my intel officer and explained</p> <p>24 to my intel officer that Mr. Rowe had a blog page going on</p> <p>25 and it was very interesting, for her to check it out. So she</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes, sir.</p> <p>2 Q. And It says "Outgoing mail should not generally be</p> <p>3 searched unless there is a reason for suspicion", is that</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. And your reason for suspicion was that Mr. Rowe had</p> <p>7 a blog?</p> <p>8 A. Correct.</p> <p>9 Q. And that was it?</p> <p>10 A. No, sir, and the JPays that was being sent out.</p> <p>11 Q. But you didn't see the JPays?</p> <p>12 A. Correct.</p> <p>13 Q. So your suspicion in order to look at the JPays was</p> <p>14 that he had a blog?</p> <p>15 A. Correct.</p> <p>16 Q. And that was it?</p> <p>17 A. Correct.</p> <p>18 Q. That's the circumstances is having a blog?</p> <p>19 A. Blog.</p> <p>20 Q. Is having a blog is suspicious?</p> <p>21 A. No, the blog is not suspicious, but he's doing a</p> <p>22 blog on the internet. He has to be sending it through the</p> <p>23 mail some type way through JPay. So I have to have</p> <p>24 permission to check his mail before it's being sent out.</p> <p>25 How is he going to send the blog out?</p>	<p style="text-align: right;">Page 53</p> <p>1 went on the blog page, she looked at it. When she advised me</p> <p>2 of what she had read, I told her to get in contact with Ms.</p> <p>3 Brickhead the operational manager and to find out where do we</p> <p>4 need to start it from here. And that's when she gave us the</p> <p>5 instructions on where we can begin with doing the mail cover</p> <p>6 and getting it signed.</p> <p>7 Q. And you mentioned that there was a petition and</p> <p>8 something about riots. Tell me more about that.</p> <p>9 A. We had a petition going around for to set a riot to</p> <p>10 offenders going on a hunger strike, not to go to the dining</p> <p>11 hall. At the time that this petition was going around we</p> <p>12 couldn't tell if it is --</p> <p>13 (Court reporter asks witness to slow down)</p> <p>14 A. At the time this petition was going around we said</p> <p>15 had to take it into consider safety for offenders and staff</p> <p>16 being hurt, so that's when we stepped in. And that's when we</p> <p>17 learned about the riot and the petition.</p> <p>18 Q. Did you learn about the riot and the petition before</p> <p>19 you learned about Mr. Rowe's blog or after?</p> <p>20 A. After if I can recall.</p> <p>21 Q. Okay. What was concerning to you about the petition</p> <p>22 and the riots? What did you guys know? What were you</p> <p>23 thinking about?</p> <p>24 A. We was thinking about offender safety and</p> <p>25 everything, people not getting hurt, staff not getting</p>

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<p style="text-align: right;">Page 54</p> <p>1 hurt.</p> <p>2 Q. So at the time you learned about the petition and</p> <p>3 the possibility of a riot, were you concerned that there</p> <p>4 would be a riot?</p> <p>5 A. I couldn't say it was going to be a riot or not, we</p> <p>6 were just taking the precautions.</p> <p>7 Q. How did you learn about the issue with the riot?</p> <p>8 A. By an informant.</p> <p>9 Q. And was that informant an offender?</p> <p>10 A. Yes.</p> <p>11 Q. And what did that offender inform you?</p> <p>12 A. He informed me that there was going to be a riot and</p> <p>13 that they was going to do a riot strike not to go to dining</p> <p>14 hall, and he was afraid that staff and offenders were going</p> <p>15 to end up getting hurt.</p> <p>16 Q. So he was telling you, he was reporting this in</p> <p>17 order to stop the riot?</p> <p>18 A. Correct.</p> <p>19 Q. Was that around the same time that you guys found</p> <p>20 out about the petition that we've talked about?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Did you believe there might have been a relationship</p> <p>23 between the petition and the potential riot?</p> <p>24 A. Yes.</p> <p>25 Q. Why did you think that?</p>	<p style="text-align: right;">Page 56</p> <p>1 sorry. My brain is getting tired.</p> <p>2 Did your knowledge about the petition and your</p> <p>3 concern about a riot go into the decision to stop any of</p> <p>4 Mr. Rowe's E-mails from going out?</p> <p>5 A. No.</p> <p>6 Q. It did not?</p> <p>7 A. Say that again.</p> <p>8 Q. I'm sorry, maybe that was another bad question.</p> <p>9 Did your knowledge of the petition and the riot at</p> <p>10 all affect your decision to stop Mr. Rowe's E-mails that went</p> <p>11 out? Sorry, That's also a bad question.</p> <p>12 That's not what you testified to.</p> <p>13 At the time Mr. Rowe's E-mails were being censored,</p> <p>14 did staff at the prison know about the riot and the petition</p> <p>15 that were going around?</p> <p>16 A. Yes.</p> <p>17 Q. To the best of your knowledge, understanding that</p> <p>18 you may not have been the person who censored these e-mails,</p> <p>19 to the best of your knowledge did the knowledge about the</p> <p>20 riot and the petition have an impact on the decision to stop</p> <p>21 Mr. Rowe's E-mails?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. There was also a little bit of confusion I</p> <p>24 think about the use of the words critical of and critical to</p> <p>25 in your testimony that you gave earlier. You testified about</p>
<p style="text-align: right;">Page 55</p> <p>1 A. The petition was going around at the same time that</p> <p>2 the riot, the reason why I think, is what you said? Can you</p> <p>3 repeat that.</p> <p>4 MS. MAUGHAN: I've forgotten my question. Could you</p> <p>5 read it?</p> <p>6 COURT REPORTER: "Did you believe there might have</p> <p>7 been a relationship between the petition and the potential</p> <p>8 riot?"</p> <p>9 A. Because offenders had signed the petition, the</p> <p>10 petition was found with offenders signature and a state</p> <p>11 number beside it.</p> <p>12 Q. And a state number was beside it?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Okay. And those things were happening around the</p> <p>15 same time, is that correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And Mr. Rowe signed that petition?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. With 40 or 45 other people?</p> <p>20 A. Correct.</p> <p>21 Q. And those people being offenders?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Did your knowledge about the possible riot and the</p> <p>24 petition inform at all your decision or the decision to delay</p> <p>25 or review Mr. Rowe's E-mails? That was a bad question. I'm</p>	<p style="text-align: right;">Page 57</p> <p>1 things that you found critical, and you said critical to -- I</p> <p>2 believe you were using the phrase critical to the</p> <p>3 institution. What do you mean by the phrase critical to?</p> <p>4 A. Harm, threats, danger to.</p> <p>5 Q. So would it be fair to say that when you're thinking</p> <p>6 that something might be critical to someone that is possibly</p> <p>7 putting them in danger?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. If I say that I am critical of someone, does</p> <p>10 that have a different meaning to you?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So if I say that I'm critical of trying not</p> <p>13 to be political, if I'm critical of the President, of a</p> <p>14 country that doesn't exactly exist, what does that mean to</p> <p>15 you?</p> <p>16 A. Just critical of it, that you're just speaking</p> <p>17 terms. It's not that you're making a threat toward it,</p> <p>18 you're not putting it like in harm's way. You're not making</p> <p>19 a threat directly towards something.</p> <p>20 Q. So if I say I don't like the president of this other</p> <p>21 country?</p> <p>22 A. You're just making a statement.</p> <p>23 Q. So I'm being critical of that president?</p> <p>24 A. Correct.</p> <p>25 Q. And so there's a difference to you between being</p>

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<p style="text-align: right;">Page 58</p> <p>1 critical of something and critical to?</p> <p>2 A. Correct.</p> <p>3 Q. So in thinking about Mr. Rowe's e-mails that were</p> <p>4 stopped or his JPay messages, were those messages concerning</p> <p>5 to you because they were critical to a person at the</p> <p>6 facility?</p> <p>7 A. Yes.</p> <p>8 Q. Did you also think that his E-mails were critical of</p> <p>9 the facility?</p> <p>10 A. Yes.</p> <p>11 Q. So can you give me an example of something that you</p> <p>12 recall Mr. Rowe complaining about in his e-mails that was</p> <p>13 critical of the facility?</p> <p>14 A. When he talk about what medical, the water, food,</p> <p>15 commissary.</p> <p>16 Q. Okay.</p> <p>17 A. Just etc., things like that.</p> <p>18 Q. Do offenders frequently say things or write things</p> <p>19 that are critical of the facility where they're housed?</p> <p>20 A. Yes.</p> <p>21 Q. Is that a security concern to you?</p> <p>22 A. Not as major as critical to.</p> <p>23 Q. Okay. So let's move on to what might be critical to</p> <p>24 in this situation. You mentioned an offender named Johnny</p> <p>25 Trane, is that correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 MS. MAUGHAN: Mr. Fogel, do you have a copy of 803.1</p> <p>2 floating around somewhere?</p> <p>3 Q. Okay, I have a couple of question for your about</p> <p>4 803.1, and we only have one copy and we can look at it both</p> <p>5 at the same time. So in looking at OP 803.1 and looking at</p> <p>6 page 19 of 20 on the document Mr. Fogel has provided, and</p> <p>7 this document as an effective date of October 1, 2017 and it</p> <p>8 says it was amended effective 4-1-18.</p> <p>9 So in section Roman numeral eight, it's entitled</p> <p>10 "Secure Messaging". Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And this part of secure, this secure</p> <p>13 messaging section of 803.1 is a separate section from the</p> <p>14 section that talks about offender postal mail, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Are JPay messages treated differently than offender</p> <p>17 Postal mail?</p> <p>18 A. No.</p> <p>19 Q. And it says, looking now at page 20 of that same</p> <p>20 operating procedure Section E, can you read what Section E</p> <p>21 says for me, please?</p> <p>22 A. "All incoming outgoing messages will be screened and</p> <p>23 must comply with the regulations governing written</p> <p>24 correspondence as provided in the operation procedure".</p> <p>25 Q. When it says "all incoming and outgoing messages</p>
<p style="text-align: right;">Page 59</p> <p>1 A. Correct.</p> <p>2 Q. And Mr. Trane recently died?</p> <p>3 A. Correct.</p> <p>4 Q. Based upon your recollection of Mr. Rowe's E-mail</p> <p>5 about Mr. Trane, what was he saying about Mr. Trane?</p> <p>6 A. He's saying Mr. Mills' -- his death could have been</p> <p>7 prevented due to unit manager Mr. Mills. That too is</p> <p>8 bringing Mr. Mills like he could have prevented death from</p> <p>9 happening or it shouldn't have happened. If that blog had</p> <p>10 got out or it got out, it could have put Mr. Mills' life in</p> <p>11 danger. He was being critical, put into danger by he's</p> <p>12 saying that Trane's death could have been prevented due to</p> <p>13 Mr. Mills.</p> <p>14 Q. And so was your concern that Mr. Trane's family</p> <p>15 might read think it was true and somebody might try to hurt</p> <p>16 Mr. Mills?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. So that's what you mean by critical to?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. And so being fair, that's also critical of</p> <p>21 Mr. Mills, right?</p> <p>22 A. Correct.</p> <p>23 Q. You're familiar with OP 803.1, correct?</p> <p>24 Do offenders have access to 803.1?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 61</p> <p>1 will be screened," what does that mean?</p> <p>2 A. All offenders E-mail, JPay E-mails are screened,</p> <p>3 incoming and outgoing.</p> <p>4 Q. What does it mean to screen them?</p> <p>5 A. You select, so I mean instead of just trying to do</p> <p>6 everybody, you just do it selectively and just go through.</p> <p>7 If you have a target or you're looking at someone then you're</p> <p>8 definitely going to read their JPay E-mails. So you just</p> <p>9 screen through all, I mean through the JPay e-mails, and if</p> <p>10 they're approved to go out then they get approved and they've</p> <p>11 been sent out.</p> <p>12 Q. Under this particular provision of this OP, you have</p> <p>13 to get a mail cover or letter that you were talking about</p> <p>14 earlier to screen JPay e-mails?</p> <p>15 A. No, for the outgoing mail for the regular United</p> <p>16 States Postal Mail I have that from the United States Postal</p> <p>17 Mail.</p> <p>18 Q. So is it your practice to get a mail cover letter</p> <p>19 even if you're going to screen JPay messages also?</p> <p>20 A. No, I does it for my regular mail.</p> <p>21 Q. Okay, but you don't --</p> <p>22 A. No, because Jpay if all of them just come straight</p> <p>23 up on the screen.</p> <p>24 Q. So the policy does not require you to get a mail</p> <p>25 cover letter for the JPay mail messages?</p>

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<p style="text-align: right;">Page 62</p> <p>1 A. No.</p> <p>2 Q. I don't think I have any other questions right now.</p> <p>3 MR. FOGEL: I have got a few.</p> <p>4</p> <p>5 BY-MR. FOGEL:</p> <p>6</p> <p>7 Q. Lieutenant, did you just say that you're authorized</p> <p>8 to look at any JPay messages sent out of the institution</p> <p>9 without any permission from anybody?</p> <p>10 A. Correct, but they're screening, you're screening,</p> <p>11 that's not that you're looking at every last one of them. If</p> <p>12 I have information that okay, Rowe, I need to put a mail</p> <p>13 cover on him because I'm receiving information that this is</p> <p>14 going on with him. I'm going to do a mail cover on him</p> <p>15 regardless to cover me for his incoming, outgoing and his</p> <p>16 JPay. Because I haven't been reading Rowe's JPays because he</p> <p>17 never gave me a problem. But I have ones that I'm dealing</p> <p>18 with that I have to check on this guy here, so sure I put a</p> <p>19 mail cover on him for his incoming, outgoing, and that will</p> <p>20 cover his JPays also.</p> <p>21 Q. Why do you need a mail cover for the JPays?</p> <p>22 A. For me that's what I does that.</p> <p>23 Q. So you're not making the decision about censorship,</p> <p>24 it's the Warden?</p> <p>25 A. What do you mean making the decision for what?</p>	<p style="text-align: right;">Page 64</p> <p>1 the incoming mail that's coming in from the mail room.</p> <p>2 Q. And the JPays?</p> <p>3 A. I don't have to have anything because it's coming</p> <p>4 from JPay. They're sending it through to us.</p> <p>5 Q. So you can read any JPay e-mail?</p> <p>6 A. Correct.</p> <p>7 Q. Without getting a cover letter?</p> <p>8 A. Correct.</p> <p>9 Q. From anybody?</p> <p>10 A. Correct.</p> <p>11 Q. But in many instances you do get cover letters?</p> <p>12 A. Correct.</p> <p>13 Q. That gives you protection?</p> <p>14 A. Correct.</p> <p>15 Q. And in this particular instance that we're talking</p> <p>16 about here, you didn't get a cover letter, you first went to</p> <p>17 Ms. Brickhead and she authorize you to do it?</p> <p>18 A. Yes.</p> <p>19 Q. But you didn't need her authorization, did you?</p> <p>20 A. No.</p> <p>21 Q. But you did it why?</p> <p>22 A. We just started off really doing JPays and started</p> <p>23 screening everybody because I was by myself at the time, and</p> <p>24 I was just doing selected ones that was coming up that I was</p> <p>25 actually doing investigation on.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. You said to cover yourself, to protect yourself from</p> <p>2 what?</p> <p>3 A. For JPay? If I have -- like I said, if I am working</p> <p>4 a case on him, I'm going to do a mail cover so when it comes</p> <p>5 back and says did you have a mail cover, I have proof that I</p> <p>6 have a mail cover for checking your incoming and outgoing</p> <p>7 mail. That's considered to me is incoming and outgoing</p> <p>8 mail.</p> <p>9 Q. But you don't need a cover in order to --</p> <p>10 A. That's incoming and outgoing mail.</p> <p>11 Q. So you do need a cover?</p> <p>12 A. Not really for JPays because I'm not screening every</p> <p>13 one.</p> <p>14 Q. Are you authorized to screen anybody's JPay --</p> <p>15 A. Yes, I am authorized.</p> <p>16 Q. -- E-mails without specific permission?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And therefore you could do everyone's E-mail</p> <p>19 without permission, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Why do you get cover letters?</p> <p>22 A. Because incoming outgoing mail, if I'm going to be</p> <p>23 opening up an investigation is going to ask me did I have</p> <p>24 permission for the incoming and outgoing mail, which is going</p> <p>25 to be outgoing mail that I need to get from the mail room and</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Why did you do to Ms. Brickhead if you didn't need</p> <p>2 authority?</p> <p>3 A. Because of the incident that occurred, the blog.</p> <p>4 She was over top of the mail room. She was a supervisor for</p> <p>5 the mail room, incoming and outgoing mail, so that's why my</p> <p>6 intel officer went to her.</p> <p>7 Q. But you didn't know go to her --</p> <p>8 A. My intel officer did not know that, that's why she</p> <p>9 went to her to advise her what was going on.</p> <p>10 Q. But you didn't need to go to her in order to read</p> <p>11 the JPays?</p> <p>12 A. No.</p> <p>13 Q. So she went to her anyway. And can you explain why,</p> <p>14 if you know?</p> <p>15 A. No, I do not know why she went there.</p> <p>16 Q. And but you have regularly gone and spoken to her</p> <p>17 and asked her opinion about censorship, have you not?</p> <p>18 A. Asked who?</p> <p>19 Q. Ms. Brickhead. You asked her opinion other than</p> <p>20 with Mr. Rowe about whether or not an item should be</p> <p>21 censored?</p> <p>22 A. She just instructed my intel that if anything comes</p> <p>23 up with this blog or a petition -- I mean not the petition</p> <p>24 thing, with the blog, you know, to censor all of them. So</p> <p>25 that's when they sensor and goes to security.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q. My question is have you, since Mr. Rowe's E-mail was 2 censored, ever gone to Ms. Brickhead to ask her advice about 3 whether to sensor something?</p> <p>4 A. Yes.</p> <p>5 Q. Regularly?</p> <p>6 A. Yes.</p> <p>7 Q. Okay, that's my question.</p> <p>8 Now, you say in response to questions from your 9 lawyer that the rumor you heard from a snitch?</p> <p>10 A. It's not a snitch, it's an informant.</p> <p>11 Q. What's the difference?</p> <p>12 A. We don't call them snitches, we call them 13 informants.</p> <p>14 Q. What's the difference?</p> <p>15 A. It's a difference for me. I call them informants --</p> <p>16 Q. You can call them anything You want and I can call 17 them anything I want. You understand what I'm saying when I 18 say snitch?</p> <p>19 A. Yes.</p> <p>20 Q. For your benefit, you had an informant who came and 21 told you that there was what, talk of a riot?</p> <p>22 A. Correct.</p> <p>23 Q. What, if any, connection did you make to Mr. Rowe 24 about that?</p> <p>25 A. What connection did I make to Mr. Rowe?</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Yes, sir.</p> <p>2 Q. And he goes through the Warden's decisions and 3 grievances?</p> <p>4 A. Correct.</p> <p>5 Q. And he has authority to either uphold them?</p> <p>6 A. Correct.</p> <p>7 Q. Or to reverse them?</p> <p>8 A. Correct.</p> <p>9 Q. And same thing with headquarters, there's a further 10 appeal in some instances?</p> <p>11 A. Yes.</p> <p>12 Q. And they have the authority to either uphold it, 13 or --</p> <p>14 A. Yes, sir.</p> <p>15 Q. -- or to reject it? Okay.</p> <p>16 Did you ever talk to the Warden about Mr. Rowe other 17 than that one time you mentioned?</p> <p>18 A. No.</p> <p>19 Q. Were you ever told any advice about whether you 20 should continue to censor his material or not?</p> <p>21 A. No.</p> <p>22 Q. You weren't told to stop?</p> <p>23 A. No.</p> <p>24 Q. So in subsequent times after these two incidents of 25 censorship, you didn't find any other JPays that raised a</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Yes, about the so called riot.</p> <p>2 A. I didn't make any connection to him until the 3 petition stuff came up.</p> <p>4 Q. And then you made the same connection that you made 5 with the 40 or so other people who also signed it?</p> <p>6 A. Correct.</p> <p>7 Q. Whose blogs -- you didn't look to see whether they 8 had blogs, did you?</p> <p>9 A. No, I did not.</p> <p>10 Q. And you didn't look at their JPays, did you?</p> <p>11 A. Yes, I did.</p> <p>12 Q. You did look at all 40?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Now, at any point were you told -- by the way, who's 15 Ms. Darden?</p> <p>16 A. I don't know who Ms. Darden is.</p> <p>17 Q. Wasn't she the Warden at some point?</p> <p>18 A. No, sir.</p> <p>19 Q. At Sussex? Was she an assistant warden?</p> <p>20 A. No, sir.</p> <p>21 Q. Okay. Who is Mr. Holloway? Do you know him?</p> <p>22 A. Yes, I do.</p> <p>23 Q. He is the --</p> <p>24 A. Regional.</p> <p>25 Q. Regional administrator?</p>	<p style="text-align: right;">Page 69</p> <p>1 concern for you?</p> <p>2 A. Ms. Brickhead contacted my intel officer and told 3 her. I don't know what they discussed, so I can't answer 4 that question, but for me, no.</p> <p>5 Q. And you don't know what they discussed?</p> <p>6 A. No.</p> <p>7 Q. What's the name of that intel officer?</p> <p>8 A. Perkerson. P-e-r-k-e-r-s-o-n.</p> <p>9 Q. And first name?</p> <p>10 A. N as is Nancy.</p> <p>11 Q. I have no further questions.</p> <p>12 MS. MAUGHAN: I don't have anything either.</p> <p>13 (Deposition concluded at 2:40 p.m.)</p> <p>14 AND FURTHER THIS DEPONENT SAITH NOT</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<div style="text-align: right; font-weight: bold; font-size: small;">Page 70</div> <p>1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:</p> <p>2 I, Cynthia G. Shortlidge, notary public in and for the</p> <p>3 Commonwealth of Virginia at large, and whose commission</p> <p>4 expires August 31, 2019, do certify that the aforementioned</p> <p>5 appeared before me and that the foregoing is a true, correct</p> <p>6 and full transcript of the hearing.</p> <p>7 I further certify that I am neither related to nor</p> <p>8 associated with any counsel or party to this proceeding, nor</p> <p>9 otherwise interested in the event thereof.</p> <p>10</p> <p>11 Given under my hand this 11th day of June, 2019, at</p> <p>12 Richmond, Virginia.</p> <div style="text-align: center; margin-top: 20px;"> <p style="font-size: x-small;">UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</p> <hr style="width: 20%; margin: 10px auto;"/> <p style="margin: 0;">Cynthia G. Shortlidge, Notary Public</p> <p style="margin: 0;">Notary Registration Number: 198638</p> </div> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																	
<div style="text-align: right; font-weight: bold; font-size: small;">Page 71</div> <p>1 CHANGES REQUESTED TO THE DEPOSITION OF</p> <p>2 LT. MICHELLE CARPENTER, TAKEN ON MAY 31, 2019</p> <table style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <th style="width: 15%;">Page/Line:</th> <th style="width: 45%;">Change to/from:</th> <th style="width: 40%;">Reason:</th> </tr> <tr><td>4</td><td>=====</td><td></td></tr> <tr><td>5</td><td>_____</td><td></td></tr> <tr><td>6</td><td>_____</td><td></td></tr> <tr><td>7</td><td>_____</td><td></td></tr> <tr><td>8</td><td>_____</td><td></td></tr> <tr><td>9</td><td>_____</td><td></td></tr> <tr><td>10</td><td>_____</td><td></td></tr> <tr><td>11</td><td>_____</td><td></td></tr> <tr><td>12</td><td>_____</td><td></td></tr> <tr><td>13</td><td>_____</td><td></td></tr> <tr><td>14</td><td>_____</td><td></td></tr> <tr><td>15</td><td>_____</td><td></td></tr> <tr><td>16</td><td>_____</td><td></td></tr> <tr><td>17</td><td>_____</td><td></td></tr> <tr><td>18</td><td>_____</td><td></td></tr> </table> <div style="text-align: right; margin-top: 10px; font-size: x-small;"> <p>Halasz Reporting & Video 804.708.0025</p> <p>PO Box 1644 Richmond, VA 23218-1644</p> </div> <p>19</p> <div style="text-align: center; margin-top: 20px;"> <p style="margin: 0;">Lt. Michelle Carpenter</p> <hr style="width: 20%; margin: 0 auto;"/> </div> <p>20 Commonwealth of Virginia, to wit:</p> <p>21 Subscribed to before me</p> <p>22 this _____ day of _____, 2019.</p> <p>23 _____</p> <div style="text-align: center; margin-top: 10px;"> <p style="margin: 0;">Notary Public</p> <p style="margin: 0;">My Commission expires: / /</p> </div> <p>24</p> <p>25</p>	Page/Line:	Change to/from:	Reason:	4	=====		5	_____		6	_____		7	_____		8	_____		9	_____		10	_____		11	_____		12	_____		13	_____		14	_____		15	_____		16	_____		17	_____		18	_____		
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